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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,909	05/23/2001	Viktors Berstis	AUS919980916US2	3240
35525	7590	07/09/2004	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			VUONG, QUOCHIE B	
			ART UNIT	PAPER NUMBER
			2685	6

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/863,909

Applicant(s)

BERSTIS, VIKTORS

Examiner

Quochien B Vuong

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18, 28-36 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18, 28-36 and 42-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the Preliminary Amendment filed on 07/16/2001 (paper #3) which added new claims 43-44. Claims 10-18, 28-36, and 42-44 are now pending in the present application.

It is noted that the previous Preliminary Amendment filed on 05/23/2001 (paper #2) canceled claims 1-9, 19-27, 37-41, 43, and 45; and indicated that claims 10-18, 28-36, 42, 44, and 46 remain in the application. However, there were only 42 claims originally; the original claims do not include claims 43-46.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 09/18/2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Williams et al. disclose record/playback device is used by multiple user for associating broadcast event with a user (column 3, lines 5-38, 48-67; column 5, lines 42-51; column 8, lines 4-13; column 11, line 61 – column 12, line 67; and column 13, line 13-25). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the above teaching of Williams et al. to Hoffman et al. and Culbertson et al., in order to automatically record broadcast event associated with a user (as suggested by Williams et al. at column 2, lines 6-8).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 17 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 35 recite the limitation "the memory" on line 1. There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-17, 28-35, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (US 4,635,121) in view of Culbertson et al. (US 5,168,481).

Regarding claims 10, 28, and 42, Hoffman et al. disclose a method, a system, and a computer program product implemented in a data processing system for storing broadcast events for playback at a later time, wherein the data processing system includes a broadcast receiver, the method comprising: receiving a retention parameter for retaining a broadcast event; and retaining a broadcast event according to the

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retention parameter (column 5, lines 27-42; and column 7, lines 32-60). Hoffman et al. do not specifically disclose receiving a playback scheduling parameter for scheduling a broadcast event; receiving a playback format parameter for playing back a broadcast event; retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter. However, Culbertson et al. disclose receiving a playback scheduling parameter for scheduling a broadcast event; receiving a playback format parameter for playing back a broadcast event; retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter (column 1, lines 25-35, 43-66). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the above teaching of Culbertson et al. to Hoffman et al., in order to automatically playback stored broadcast based on the schedule (as suggested by Culbertson et al. at column 1, lines 55-60).

As to claims 11-15 and 29-33, see Hoffman et al., column 1, lines 50-61, columns 4-5; and column 7, lines 32-60.

As to claims 16 and 34, Hoffman et al. further disclose a memory is included in the data processing system (figure 1, memory 7).

As to claims 17 and 35, Hoffman et al. further disclose a memory is included in the data processing system. However, it would have been obvious for a memory being not included in the data processing system so that the broadcast can be stored externally in order to reduce the size of the data processing system.

7. Claims 18, 36, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Culbertson et al. and further in view of Williams et al. (US 5,977,964).

Regarding claims 18 and 36, Hoffman et al. and Culbertson et al. disclose the method and system of claims 10 and 28 above, respectively. Hoffman et al. and Culbertson et al. fail to disclose associating the selected broadcast events to a user. However, Williams et al. disclose record/playback device is used by multiple user and associating broadcast event with a user (column 3, lines 5-38, 48-67; column 5, lines 42-51; column 8, lines 4-13; column 11, line 61 – column 12, line 67; and column 13, line 13-25). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the above teaching of Williams et al. to Hoffman et al. and Culbertson et al., in order to automatically record broadcast event associated with a user (as suggested by Williams et al. at column 2, lines 6-8).

Regarding claims 43 and 44, disclose a method, a system, and a computer program product implemented in a data processing system for storing broadcast events for playback at a later time, wherein the data processing system includes a broadcast receiver, the method comprising: receiving a retention parameter for retaining a broadcast event; and retaining a broadcast event according to the retention parameter (column 5, lines 27-42; and column 7, lines 32-60). Hoffman et al. do not specifically disclose receiving a user identification; receiving a playback scheduling parameter for scheduling a broadcast event based on the user identification; receiving a playback format parameter for playing back a broadcast event based on the user identification;

retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter. However, Culbertson et al. disclose receiving a playback scheduling parameter for scheduling a broadcast event; receiving a playback format parameter for playing back a broadcast event; retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter (column 1, lines 25-35, 43-66). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the above teaching of Culbertson et al. to Hoffman et al., in order to automatically playback stored broadcast based on the schedule (as suggested by Culbertson et al. at column 1, lines 55-60).

Williams et al. disclose record/playback device is used by multiple user and receiving a user identification and associating broadcast event with the user identification (column 3, lines 5-38, 48-67; column 5, lines 42-51; column 8, lines 4-13; column 11, line 61 – column 12, line 67; and column 13, line 13-25). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the above teaching of Williams et al. to Hoffman et al. and Culbertson et al., in order to automatically record broadcast event associated with the user identification (as suggested by Williams et al. at column 2, lines 6-8).

***Conclusion***

**8. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**


(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA 22202. Sixth Floor (Receptionist).

Any inquiry concerning this communication from the examiner should be directed to Quochien B. Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on Monday through Friday from 9:30 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached on (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377.



**QUOCHIE B. VUONG  
PRIMARY EXAMINER**

Quochien B. Vuong  
June 24, 2004.